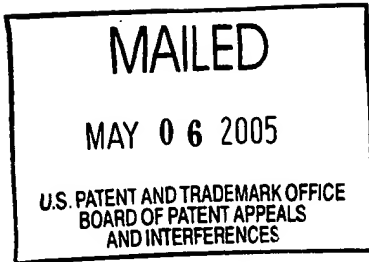


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HOWARD LYNN LINCECUM

Application 09/775,451

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on March 1, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

Appellant filed an Appeal Brief on September 24, 2003. In response, the examiner mailed an Examiner's Answer on December 12, 2003 which states:

Claims 1-4, 6-8, 11, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugimoto et al. as previously made of record in paragraph 11 of

Paper 6 (in regard to claims 1-4, 6-8 and 11) and in paragraph 19 of Paper 11 (in regard to claims 18 and 19) [page 4 under the heading "Claims Rejections - 35 USC § 103].

Section 1208(A) of the Manual of Patent Examining Procedure

(MPEP) (Eighth Ed., Rev. 1, August 2001) states:

Examiners may incorporate in the answer their statement of the grounds of rejection merely by reference to the final rejection (or a single other action on which it is based, MPEP § 706.07). Only those statements of grounds of rejection appearing in a *single* prior art action may be incorporated by reference. An examiner's answer should not refer, either directly or indirectly, to more than one prior Office action.

Furthermore, MPEP § 706.07 states:

In making the final rejection, all outstanding grounds of rejection of record should be carefully reviewed, and any such grounds relied on in the final rejection should be reiterated. They must also be clearly developed to such an extent that applicant may readily judge the advisability of an appeal unless a single previous Office action contains a complete statement supporting the rejection.

A review of the Image File Wrapper (IFW) reveals that the examiner refers to more than one single Office action when stating the grounds of rejection. Therefore, the Examiner's Answer mailed December 11, 2003 does not comply with the requirements set forth in MPEP §§ 706.07 and 1208(A).

Application 09/775,451

Accordingly, it is

ORDERED that the application is returned to the
examiner:

1. for compliance with MPEP §§ 706.07 and 1208(A) by
correctly stating the grounds of rejection in a Supplemental
Examiner's Answer; and
2. for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW
Program and Resource Administrator
(571) 272-9797

DMS/psb/meh

cc: Jones, Walker, Waechter, Poitevent, Carrere
& Denegre, L.L.P.
5th Floor, Four United Plaza
8555 United Plaza Boulevard
Baton Rouge, LA 70809